

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MICHAEL FOSTER,	:	Case No. 1:04cv1032
	:	
Plaintiff,	:	JUDGE KATHLEEN O'MALLEY
	:	
v.	:	
	:	
GERALD T. McFAUL, <i>et al.</i>,	:	ORDER
	:	
Defendants.	:	

On August 11, 2005, the Court conducted an on-the-record telephonic conference to resolve a discovery dispute that has arisen in this case because of the vast number of discovery requests. Plaintiff, *pro se*, and Defendants, through counsel, appeared by phone. The Court addressed the discovery issue as well as several motions. In summary, and for the reasons more fully articulated on the record, these matters are resolved as follows:

DISCOVERY:

- Defendants shall within ten (10) days of the date of this Order provide written notice to the Court and Plaintiff as to their ability to locate, compile and produce the medical and housing

log books for the Cuyahoga County Jail for the approximately two (2) month period relevant to the Plaintiff's claims in this action. Defendants shall make every effort to locate and produce these documents, in redacted form, if appropriate;

- Defendants do not need to respond to any still outstanding discovery requests contained in Plaintiff's second set of Requests for Admission and Document Requests. The parties agreed, however, that Plaintiff may submit a letter to Defendants' counsel asking for very specific items, even if those items otherwise fall within the bounds of Plaintiff's second set of discovery requests. Defendants' counsel agreed, and is hereby ordered, to make every effort to produce those specific items to Plaintiff;
- Henceforth, Plaintiff's discovery is limited only to a total of ten (10) additional requests for the production of documents. These requests may be directed to more than one Defendant, when appropriate. Plaintiff is prohibited from serving any interrogatories or additional requests for admission;
- Defendants immediately shall review their prior responses to Plaintiff's previous discovery requests (i.e., the first set of requests for admission and production of documents) and supplement any deficiencies within twenty-one (21) days of the date of this Order; and
- After having received and reviewed Defendants' supplemental responses (if any are provided) and discussed any perceived deficiencies with Defendants in an effort to resolve any conflict without Court intervention, if Plaintiff believes Defendants' responses are inadequate, he may file a list of the requests and responses in question for review by the Court.

MOTIONS:

- *Ohio Patrolmen's Benevolent Association's Motion to Quash Subpoena Duces Tecum* (Doc. 65) is **GRANTED**;
- *Plaintiff's Motion to Compel Non-Party For Production of Documents, and for Order to Deny Non-Parties' Motion to Quash Subpoena Duces Tecum* (Doc. 70) is **DENIED**.
- *Plaintiff's Motion to Compel Production of Documents* (Doc. 66) relative to the Plain Dealer Newspaper is **DENIED**.

IT IS SO ORDERED.

s/Kathleen M. O'Malley

KATHLEEN McDONALD O'MALLEY
UNITED STATES DISTRICT JUDGE

Dated: August 12, 2005